United States Court of Appeals

for the Second Circuit

BRIEF FOR APPELLEE

77-7154

A R G U M E N T

1. The appellant, Mr. Bernstein, addresses his brief only to docket number 77-7085 (Bernstein v. Florida, et als.) and makes no argument about docket number 77-7154 (Brophy v. New Hampshire, et als.), which is the only case in which appellees Graper and Swanson are interested. However, the two cases involve essentially the same issue.

2. Mr. Bernstein styles himself a "reborn Christian" and contends that divorce laws violate the law of God and are therefore unconstitutional. His problem rests in the "therefore."

While no one disputes Mr. Bernstein's sincerity, Mr. Bernstein has chosen to address himself to a civil, rather than a religious, court. Thus, his contentions must be resolved by the law of man, rather than by Mr. Bernstein's view of the law of God.

3. The State has the power to regulate marriage and divorce. Sosna v. Iowa, 419 U.S. 393, 404 (1975). See also Bossom v. Bossom, ___F.2d____ (2d Cir. Slip opinion no. 76-7316, December 17, 1976). See also dictum, Pennoyer v. Neff, 95 U.S. 714, 734-35 (1877).

Burlington, Vermont.

14 May 1977.

DOWNS, RACHLIN & MARTIN

by _____
Attorney for appellee, Graper and Swanson

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

ELDAD W. BROPHY, Husband, Plaintiff-Appellant,	)	
v.	)	DOCKET NO. 77-7154
THE STATE OF NEW HAMPSHIRE, GRAPER and SWANSON, PROFESSIONAL ASSOCIATION, and as Individuals, and ANN BROPHY, Wife, Defendants-Appellee	)	

AFFIDAVIT OF SERVICE

I certify on oath that on 20 May 1977 I mailed two copies of Brief of Appellees Graper and Swanson, first-class postage, pre-paid, to each of the following persons: Norman J. Bernstein, Esq., Londonderry, Vt. 05148, attorney for plaintiff-appellant; Deborah J. Cooper, Esq., Attorney General's Office, Statehouse Annex, Concord, NH 03301, attorney for defendant-appellee, State of New Hampshire; Mrs. Ann Brophy Brown, care of Graper and Swanson, 591 Middle Street, Portsmouth, NH 03801, defendant-appellee.

Burlington, Vermont. 20 May 1977

DOWNS, RACHLIN & MARTIN

By _____
Robert D. Rachlin, Attorney
for Defendant-Appellee Graper
and Swanson

STATE OF VERMONT

CHITTENDEN COUNTY, SS.

At Burlington this 20th day of May, 1977, Robert D. Rachlin personally appeared and made oath to the foregoing on his information and belief.

Before me,

_____
Notary Public

My Commission expires:

February 10, 1979

LAW OFFICE OF
DOWNS, RACHLIN
& MARTIN
ST. JOHNSBURY
AND
BURLINGTON, VT.